

PUBLIC NOTICE

**US Army Corps
of Engineers®**

APPLICATION FOR PERMIT

Public Notice/Application No.: 2002-01569-RJD

Comment Period: February 2, 2004 through March 2, 2004

Applicant

C&C Construction
Bud Cardinal
6700 North Oracle Road, Suite 234
Tucson, Arizona 85704
(520) 575-0600

Agent

Westland Resources, Inc.
Scott Hart
2343 East Broadway Boulevard, Suite 202
Tucson, Arizona 85719
(520) 206-9585

Location

At the proposed 40-acre Tangerine Hills residential development located approximately ¼ mile south of Tangerine Road on the east side of the Tortolita Road alignment (Section 1, T12S, R12E), Marana, Pima County, Arizona.

Activity

To construct five culverted road crossings with buried utilities in unnamed washes. The road and utilities will provide access and utility service to the 25 single family lots within Tangerine Hills. For more information, see page 3 of this notice and the attached figures.

Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawing(s). Interested parties are invited to provide their views on the proposed work, which will become a part of the record and will be considered in the decision. This permit application will be issued or denied under Section 404 of the Clean Water Act (33 U.S.C. 1344).

Comments can be e-mailed to robert.j.dummer@usace.army.mil or mailed to:

**U. S. Army Corps of Engineers
ATTENTION: Regulatory Branch (2002-01569-RJD)
3636 North Central Avenue, Suite 900
Phoenix, Arizona 85012-1939**

Evaluation Factors

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the proposal, will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Preliminary Review of Selected Factors

EIS Determination- A preliminary determination has been made that an environmental impact statement is not required for the proposed work.

Water Quality- The applicant will be required to obtain water quality certification, under Section 401 of the Clean Water Act, from the Arizona Department of Environmental Quality and/or the U.S. Environmental Protection Agency. For any proposed activity on Tribal land that is subject to Section 404 jurisdiction, the applicant will be required to obtain water quality certification from the U.S. Environmental Protection Agency. For any proposed activity on land other than Tribal land that is subject to Section 404 jurisdiction, the applicant will be required to obtain water quality certification from the Arizona Department of Environmental Quality. Section 401 of the Clean Water Act requires that any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers.

Cultural Resources- The latest version of the National Register of Historic Places has been consulted and there are no sites within the permit area. Old Pueblo Archaeology Center surveyed the right-of-way for the access road and the 40-acre site for cultural resources. Their Letter Reports No. 2002.021 and 2003.007, prepared for the applicant, state that no archaeological sites were found within the permit area. This review constitutes the extent of cultural resources investigations by the District Engineer, and he is otherwise unaware of the presence of such resources.

Endangered Species- The Corps of Engineers has determined that the proposed activities may adversely affect the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) and its proposed critical habitat. The proposed project would not affect any other federally proposed/listed species or their proposed/designated critical habitat. The Corps of Engineers has initiated formal Section 7 consultation and conference procedures with U.S. Fish and Wildlife Service concerning impacts to the cactus ferruginous

pygmy-owl and its proposed critical habitat.

Public Hearing- Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

Proposed Activity for Which a Permit is Required

To construct three off-site and two on-site culverted road crossings as shown in Figures 2 and 3. The total impact for all five crossings is 0.101 acres. Individual impact acreage by crossing is Off-site 1(0.018acres), Off-site 2(0.054 acres), Off-site 3(0.015 acres), On-site 1(0.010 acres), and On-site 2(0.014 acres). The utilities for this project follow the roadways and at each wash the utilities are buried within the same area impacted by the fill for the culverted road crossing.

Additional Project Information

The project purpose is to provide single-family housing in the northwestern portion of the greater Tucson metropolitan area.

The applicant is proposing to develop a 25-lot residential community on a 40-acre parcel located 1/4 mile south of Tangerine Road on the east side of the Tortolita Road alignment. The project includes only the westernmost 40 acres of the earlier 196-acre Tangerine Hills Specific Plan that was submitted to the Town of Marana in 1988. The eastern 156 acres of the 1988 Tangerine Hills Specific Plan is now owned by others and this project is no longer part of the Tangerine Hills Specific Plan. This project was rezoned from F (Specific Plan) to R-36 on November 5, 2002 at the recommendation of the Town of Marana Planning Commission. The lot layout and building pads have been designed to minimize impacts to the wash corridors that cross this property.

The project lies on a bajada that slopes south to southwestward at less than a five percent gradient. The bajada extends from the foot of the Tortolita Mountains to the Santa Cruz River. There are no perennial or intermittent water sources on or adjacent to the project. Several unnamed ephemeral xeroriparian washes traverse the property, which are tributary to the Santa Cruz River. Vegetation within the project is typical Arizona Upland subdivision Sonoran Desertscrub biome as described by Brown (1982). Saguaros and two species of palo verde trees are visually the dominant plant species.

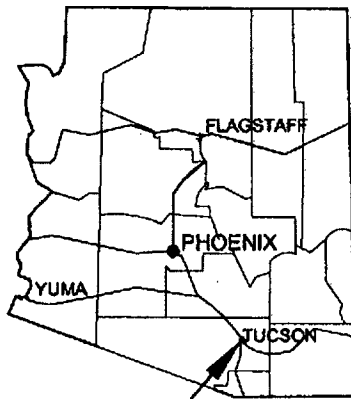
The Corps of Engineers has reviewed the proposed project pursuant to the February 24, 2003 *Guidelines to ensure the Nationwide Permit program will not adversely affect the cactus ferruginous pygmy-owl (Guidelines)* and determined that the proposed project exceeds the *Guidelines* no effect criteria at 5(A) and exceeds the *Guidelines* may affect, not likely to adversely affect criteria at 5(B) (1 and 2). Therefore, the *Guidelines* require that when there is an adverse affect determination made the Corps of Engineers process the permit application as a standard individual permit instead of a nationwide permit.

Proposed Special Conditions

As part of the endangered species consultation for impacts to the pygmy-owl, the applicant has proposed a series of Covenants, Conditions, and Restrictions (CC&Rs) that would be tied to the land. The 11 proposed CC&Rs would limit project impacts to on-site habitat that could be used by the pygmy-owl.

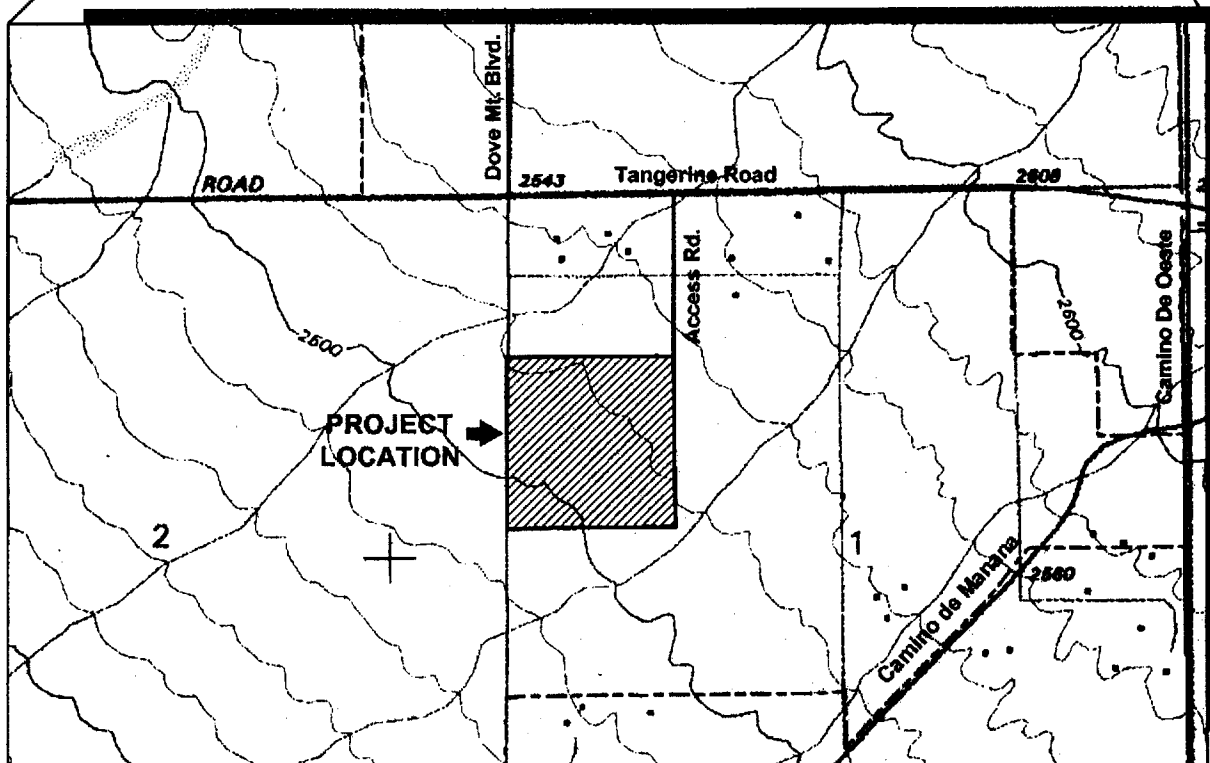
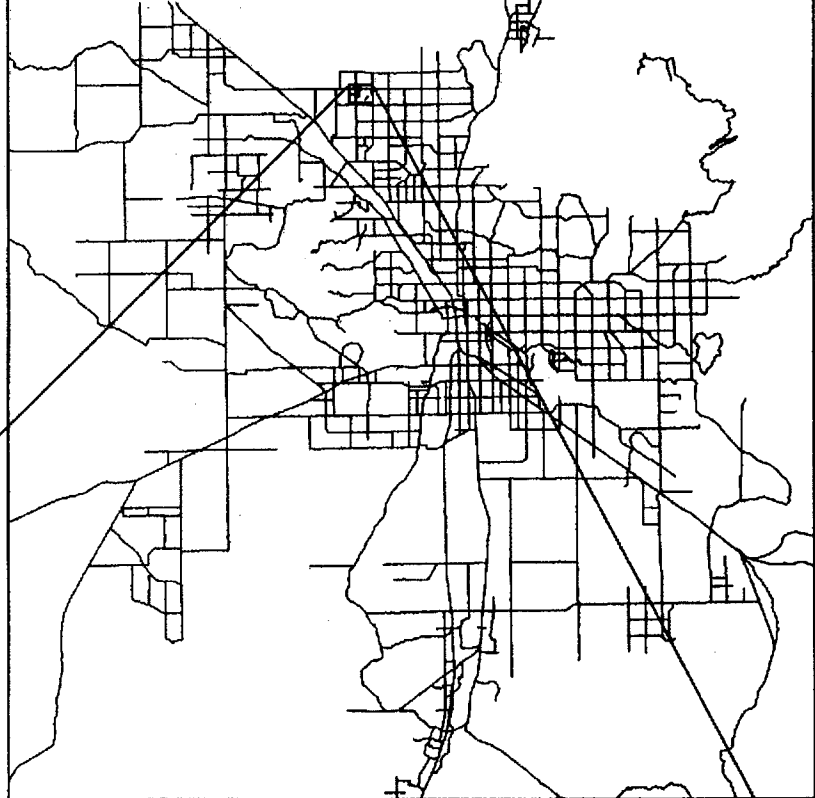
For additional information please call Robert J. Dummer at (602) 640-5385 x 224. This public notice is issued by the Chief, Regulatory Branch.

ARIZONA



PROJECT
LOCATION

TUCSON METROPOLITAN AREA



T. 12S., R. 12 E., Sec. 1, SW 1/4 of NW 1/4
Pima County, Arizona, Ruelas Canyon 1:24000 USGS Quadrangle



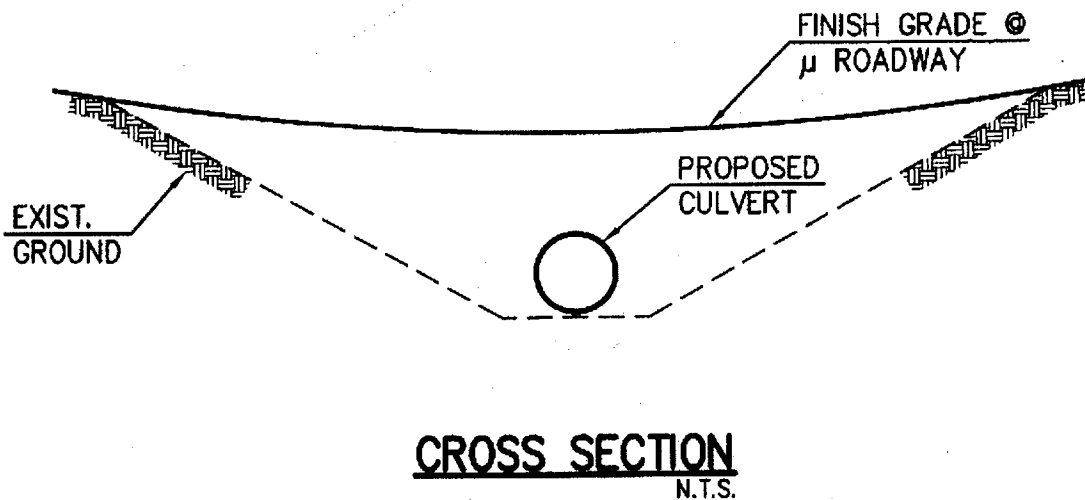
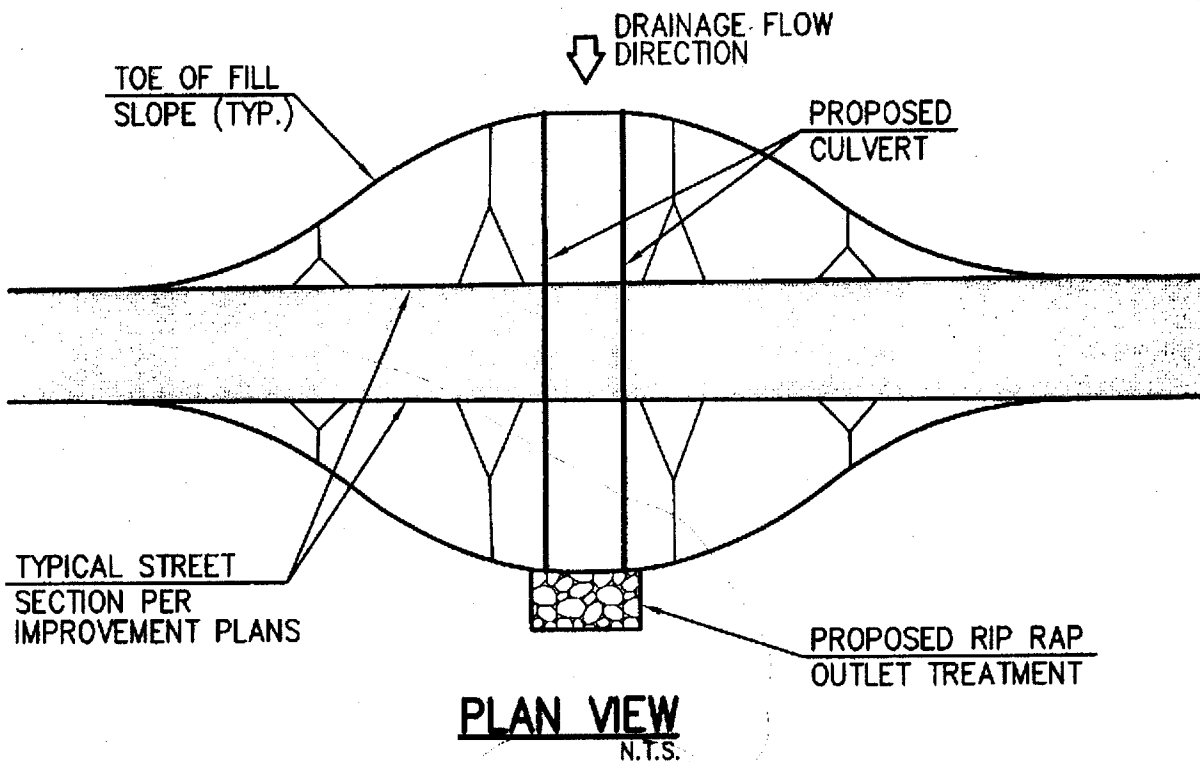
0 750' 1500'
Approximate Scale 1" = 1500'

C&C Construction
File No. 2002-01569-RJD
Figure 1 of 3

Figure
1

C & C CONSTRUCTION
Tangerine Hills

PROJECT VICINITY MAP



C&C Construction
File No. 2002-01569-RJD
Figure 3 of 3

C & C CONSTRUCTION
Tangerine Hills

TYPICAL WASH CROSSING